

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**MI Rehab Solutions LLC**  
**Petitioner**

**File No. 21-1717**

**v**

**Frankenmuth Mutual Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 10th day of February 2022**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 7, 2021, MI Rehab Solutions LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Frankenmuth Mutual Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 9 and 24, 2021 and September 8, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 13, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 13, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 10, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 26, 2022.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on May 27, 2021, June 3, 10, and 17, 2021, and July 7, 2021. The Petitioner billed the treatments under procedure codes 97112, 97140, and 99082, which are described as neuromuscular reeducation, manual therapy, and home/community-based travel, respectively.

With its appeal request, the Petitioner's submitted documentation included three *Explanation of Review* letters issued by the Respondent, medical documentation from the dates of service at issue, and a narrative outlining its reason for appeal. The Petitioner's submitted documentation identified the injured person's diagnoses as traumatic brain injury (TBI), segmental and somatic dysfunction of the cervical and lumbar region following an August 2001 motor vehicle accident. In its narrative, the Petitioner explained that the physical therapy treatments provided to the injured person "were reasonably necessary and medically appropriate and directly related to injuries sustained in [motor vehicle accident]/ongoing impairments/sequelae."

In its denial, the Respondent based its determination on American College of Occupational and Environmental Medicine (ACOEM) practice guidelines for knee and leg conditions. In its reply, the Respondent reaffirmed its initial denial and stated:

[The injured person] has completed 60 physical therapy sessions ... and continues to complain of neck, low back and knee pain. Per the physical therapy re-evaluation of 4/2021, neck pain 0, back pain 0, left knee pain 0. Range of motion and strength were within functional limits. Spine range of motion and upper extremities range of motion and strength were within functional limits. Balance and coordination were within functional limits. [The injured person] was independent with all aspects of home/community based functional mobility. A home exercise program has been instructed to [sic] [the injured person] and caregivers.

## III. ANALYSIS

### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue and the treatments were not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed physical therapist. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Physical Therapy Association (APTA) practice guidelines for its recommendation.

The IRO reviewer noted that the injured person presented for physical therapy initially for complaints of “neck and back pain,” and decreased balance, mobility, and function with work and community events. The IRO reviewer stated that the Petitioner’s progress note from February 2021 indicated that the injured person experienced a “seizure-like event” resulting in a fall down the stairs on October 8, 2020 and a slip and fall on ice on December 28, 2020, resulting in left knee pain. In addition, IRO reviewer noted that the left knee pain was addressed “in addition to [the injured person’s] previous spinal pain impairments,” based on submitted documentation. Further, the IRO reviewer opined that “both falls that resulted in the [injured person’s] left knee pain were sequelae of his TBI from his initial accident, as he did not reportedly have seizures or impaired balance reaction strategies prior to his accident.”

Based on submitted documentation, the IRO reviewer opined that the physical therapy treatments were medically necessary, and stated that:

[The submitted] documentation accurately measured spasticity and described gait deviations that indicated [the injured person] spent more time in weight bearing on his left leg throughout the course of his day, as well as impacted balance strategies that could increase his fall risk. The falls documented on 10/8/20 and 12/28/20 accurately describe a mechanism of injury sustained from two different sequelae of having a chronic TBI, including seizures and poor balance strategies on the ice. If the purpose of this entire course of care for physical therapy were to address overall pain, improve balance, improve work tasks, and establish and progress a home exercise program, then an introduction of a new knee injury or pain would hinder appropriate progression of that plan of care. This new injury was addressed and measured appropriately and showed progress with progress notes. Exercises were adjusted to not only address the initial complaint of spinal weakness and pain but adapted to also address the new impairment.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent’s determination that the physical therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

#### **IV. ORDER**

The Director reverses the Respondent’s determinations dated August 9 and 24, 2021, and September 8, 2021.

The Petitioner is entitled to payment in the full amount billed for the May 27, 2021, and June 3, 10, and 17, 2021 dates of service and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the July 7, 2021 date of service, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox  
Director  
For the Director:

X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford